REGULATION No. I OF 1888.

(PASSED ON THE 2ND DAY OF AUGUST 1888.)

A Regulation to amend Regulation I of 1886, introducing into the territories of Mysore the Code of Criminal Procedure, Act X of 1882.

WHEREAS it is expedient to amend Regulation I of 1886, introducing into the territories of Mysore the Code of Criminal Procedure, Act X of 1882, His Highness the Maharaja is pleased to enact as follows:—

1. For section 46 of Regulation I of 1886, the following shall be substituted:—

"46. In section 503, for paragraph 2, substitute the following:—

"When the witness resides in British India, the commission may be issued to any Court competent to execute it under section 19 of the Foreign Jurisdiction and Extradition Act, XXI of 1879.

"All persons residing in the territories of Mysore, whose attendance may be required by an officer executing a commission for the examination of witnesses issued to him by a Criminal Court in British India, under the second paragraph of section 503 of the Code of Criminal Procedure, Act X of 1882, shall be bound to appear before such officer, and answer truthfully all questions which he may put to them for the purpose of executing such commission, and shall be liable to the same penalties for default in this respect as they would be liable to had their attendance been required by a Criminal Court within the territories of Mysore."

2. To Regulation I of 1886, the following sections shall be added, namely:—

Amendment of section 31 of the Code of Criminal Procedure.

"55. In the last paragraph of section 31 of the Code of Criminal Procedure, 1882, for the words 'any sentence of imprisonment for a term exceeding three years' the words 'any sentence of imprisonment for a term exceeding four years and any sentence of transportation' shall be substituted."

Section 2.

Substitution of new section for section 34.

"56. For section 34 of the same Code, the following shall be substituted, namely:—

Higher powers of certain District Magistrates.

'34. The Court of a District Magistrate, specially empowered under section 30, may pass any sentence authorized by law, except a sentence of death or of transportation for a term exceeding seven years, or of imprisonment for a term exceeding seven years; but any sentence of imprisonment for a term exceeding four years and any sentence of transportation shall be subject to confirmation by the Sessions Judge.'"

Amendment of section 110.

"57. In section 110 of the same Code, for the words 'Sub-Divisional Magistrate or Magistrate of the 1st class' the words 'or Sub-Divisional Magistrate, or a Magistrate of the 1st class' shall be substituted."

Amendment to section 162.

"58. In section 162 of the same Code, the word 'shall' shall be inserted before the words 'be used.'"

Amendment of section 173

"59. In section 173 of the same Code, the following shall be substituted for the second paragraph, namely:—

'Where a superior officer of Police has been appointed under section 158, the report shall, in any case in which the Government of Mysore by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police station to make further investigation.'"

Amendment of section 269.

"60. For the second paragraph of section 269 of the same Code, the following shall be substituted, namely:—

'When the accused is charged at the same trial with several offences of which some are and some are not triable by jury, he shall be tried by jury for such of those offences as are triable by jury, and by the Court of Session, with the aid of the jurors as assessors, for such of them as are not triable by jury.'"

Substitution of new section for section 393

"61. For section 393 of the same Code, the following shall be substituted, namely:—

Saving as to sections 396 and 397.

'398. (1) Nothing in section 396 or section 397 shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

'(2) When an award of imprisonment in default of payment of a fine is annexed to a substantive sentence of imprisonment, or to a sentence of transportation or penal servitude for an offence punishable with imprisonment, and the person undergoing the sentence is, after its execution, to undergo a further substantive

sentence, or further substantive sentences of imprisonment, transportation or penal servitude, effect shall not be given to the award of imprisonment in default of payment of the fine until the person has undergone the further sentence or sentences.'

Amendment of section 401.

"62. (1) For the third paragraph of section 401 of the same Code, the following shall be substituted, namely :—

'If any condition on which a sentence has been suspended or remitted is, in the opinion of the Government of Mysore, not fulfilled, the Government may cancel the suspension or remission; and thereupon the person in whose favor the sentence has been suspended or remitted may, if at large, be arrested by any Police officer without warrant, and remanded to undergo the unexpired portion of the sentence.'

(2) After the third paragraph of the same section, the following shall be inserted, namely :—

'The condition on which a sentence is suspended or remitted under this section may be one to be fulfilled by the person in whose favor the sentence is suspended or remitted, or one independent of his will.'"

New sections to follow section 475.

"63. After section 475 of the same Code, the following sections shall be inserted, namely :—

Power of Government to order criminal lunatics confined by its order to be removed from one place to another.

'475. A. The Government of Mysore may direct that any person whom the Government has ordered under this Chapter to be confined in a lunatic asylum, jail or other place of safe custody shall be removed from the place where he is confined to any lunatic asylum, jail or other place of safe custody in the territories of Mysore.'

Power of Government to relieve Inspector General of certain functions.

'475. B. The Government of Mysore may empower the officer in charge of the Jail in which a person is confined, under the provisions of section 466 or section 471, to discharge all or any of the functions of the Inspector General of Prisons, under section 472, section 473, or section 474.'"

Amendment of section 495.

"64. (1) For the first sentence of section 495 of the same Code, the following shall be substituted, namely :—

'Any Magistrate enquiring into or trying any case may permit the prosecution to be conducted by any person other than an officer of Police below a rank to be prescribed by the Government of Mysore in this behalf.'

(2) After the last sentence of the same section, the following shall be added, namely :—

'An officer of Police shall not be permitted to conduct the

prosecution if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted.' "

Amendment of section 510.

"65. In section 510 of the same Code, for the word 'the' before the words 'Chemical Examiner,' where those words first occur, the word 'any' shall be substituted."

New section to follow section 541.

"66. After section 541 of the same Code, the following shall be inserted, namely :—

Removal to criminal jail of accused or convicted persons who are in confinement in civil jail, and their return to the civil jail.

'541 A. (1) If any person liable to be imprisoned or committed to custody under this Code is in confinement in a civil jail, the Court or Magistrate ordering the imprisonment or committal may direct that the person be removed to a criminal jail.

(2) When a person is removed to a criminal jail under sub-section (1), he shall, on being released therefrom, be sent back to the civil jail, unless either—

(*a*) three years have elapsed since he was removed to the criminal jail, in which case he shall be deemed to have been discharged from the civil jail under section 342 of the Code of Civil Procedure as applied to Mysore by Regulation II of 1884; or

(*b*) the Court which ordered his imprisonment in the civil jail has certified to the officer in charge of the criminal jail that he is entitled to be discharged under section 341 of the Code of Civil Procedure as applied to Mysore by Regulation II of 1884.' "

Addition of new section after section 558.

"67. After section 558 of the same Code, the following section shall be added, namely :—

Officers concerned in sales not to purchase or bid for property.

'559. A public servant having any duty to perform in connection with the sale of any property under this Code shall not purchase or bid for the property.' "

Correction of omission in Schedule II.

"68. In Schedule II of the same Code, between the two lines of entries against section 211 of the Indian Penal Code, the following shall be inserted, namely :—

Column 2.	Column 3.	Column 4.	Column 5.	Column 6.	Column 7.	Column 8.
If offence charged be punishable with imprisonment for seven years.	Do	Do	Do	Do	Imprisonment of either description for seven years, and fine.	Court of Session, or Magistrate of the 1st Class.

Section 2.

[a] "69. In the same Schedule, for section 225 A, and the line of entries against that section, the following shall be substituted, namely: — Further amendment of Schedule II.

Column 1.	Column 2.	Column 3.	Column 4.	Column 5.	Column 6.	Column 7.	Column 8.
225 A	Omission to apprehend or sufferance of escape, on part of public servant in cases not otherwise provided for:—						
	(*a*) in case of intentional omission or sufferance.	Shall not arrest without warrant.	Do	Bailable.	Do	Imprisonment of either description for three years, or fine, or both.	Court of Session or Magistrate of the 1st Class.
	(*b*) in case of negligent omission or sufferance.	Do	Summons	Do	Do	Simple imprisonment for two years, or fine, or both.	Magistrate of the 1st or 2nd Class.
225 B	Resistance or obstruction to lawful apprehension or escape or rescue, in cases not otherwise provided for.	May arrest without warrant.	Warrant	Do	Do	Imprisonment of either description for six months, or fine, or both.	Ditto."

"70. In the part of Schedule III of the same Code, entitled 'IV. *Ordinary powers of a Sub-Divisional Magistrate*,' the following shall be inserted after the second article, namely:— Correction of omission in Schedule III.

'(2A) Power to require security for good behaviour, section 110.'"

"71. In the definition of 'Officer in charge of Police station,' in section 4, clause (*o*), of the same Code, there shall be substituted for the word 'therefrom' the words 'from the station-house' and for the words 'present at the Police station' the words 'present at the station-house.'" Amendment of section 4.

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[a] In enacting this amendment, it appears to have been overlooked that the substitution of the new sections 225A and 225B of the India Penal Code for the original section 225A, effected by Act X of 1886, s. 24 (1), had not been adopted in Mysore.